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Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Israeli settlements in the Occupied Palestinian Territory, including Jerusalem, and the occupied Syrian Golan

Report of the Secretary-General

Summary

In its resolution 62/108, the General Assembly requested the Secretary-General to submit to the Assembly at its sixty-third session a report on the implementation of the resolution. The present report, which has been prepared by the Office of the United Nations High Commissioner for Human Rights, is submitted pursuant to that resolution. The period covered by the report is January to August 2008.

The report addresses the continuation of the construction of Israeli settlements in the occupied Arab territories with its associated system and violence by Israeli settlers against Palestinians.

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I. Introduction

1. In its resolution 62/108 of 17 December 2007, the General Assembly expressed, inter alia, grave concern about the continuation by Israel, the occupying Power, of settlement activities in the Occupied Palestinian Territory, particularly about Israel's construction and expansion of settlements in and around East Jerusalem. It also expressed concern about the dangerous situation resulting from violent actions taken by the armed Israeli settlers in the occupied territory.

2. In the light of recent reports of the High Commissioner for Human Rights to the Human Rights Council (A/HRC/7/76 and A/HRC/8/17), which address the humanitarian situation in the Gaza Strip in 2008 and also deal with the killing of Palestinian and Israeli civilians as well as the firing of rockets against Israeli civilian areas, and of the submission, pursuant to General Assembly resolution 62/109, of the report of the Secretary-General on Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory (A/63/518), the present report addresses progress made in the implementation of resolution 62/108 concerning, specifically, the continuation in the construction of settlements in the occupied territory with its associated regime, as well as violence by Israeli settlers.

II. Legal background

A. International humanitarian law

3. The most relevant international humanitarian law standards concerning the responsibilities of Israel in the Occupied Palestinian Territory as the occupying Power are set out in the Hague Regulations and the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War.[1] In its 2004 advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories* (see A/ES-10/273 and Corr.1), the International Court of Justice recalled that, while Israel is not a party to the 1907 Convention with respect to the Laws and Customs of War on Land, to which the Hague Regulations are annexed, the provisions of the Regulations have become part of customary international law. It also concluded that the Fourth Geneva Convention is applicable in the Palestinian territories which before the 1967 conflict lay to the east of the Green Line and which, during that conflict, were occupied by Israel. Since then, a number of United Nations resolutions have reaffirmed the applicability of the Fourth Geneva Convention to the Occupied Palestinian Territory.[2]

4. The advisory opinion and a number of United Nations resolutions have all affirmed that Israel's practice of constructing settlements — in effect, the transfer by an occupying Power of parts of its own civilian population into the territory it occupies — constitutes a breach of the Fourth Geneva Convention. In addition to the construction of the settlements, other activities related to settlements are also illegal. These include the requisition of land, the destruction of houses and orchards, the construction of roads meant for the use of settlers only, the exploitation of

[1] United Nations, *Treaty Series*, vol. 75, No. 973.

[2] See, for example, Security Council resolutions 446 (1979), 465 (1980), 469 (1980) and 471 (1980) and General Assembly resolution 61/118.

natural resources within the occupied territory and the alteration of the character and status of the Occupied Palestinian Territory. The international community has also raised concerns regarding the depletion of natural resources as a result of settlements.[3]

B. International human rights law

5. In its advisory opinion, the International Court of Justice concluded that the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child are applicable within the occupied territory.[4] The position of United Nations human rights treaty bodies, which mirrors that of the International Court of Justice, is that Israel as a State party to international human rights instruments, continues to bear responsibility for implementing its human rights conventional obligations in the Occupied Palestinian Territory, to the extent that it continues to exercise jurisdiction in those territories.[5] The Court also noted that the obligations of Israel under the International Covenant on Economic, Social and Cultural Rights include an obligation not to raise any obstacle to the exercise of such rights in those fields where competence has been transferred to Palestinian authorities (para. 112).

III. Israeli settlements in the Occupied Palestinian Territory and their impact on the enjoyment of human rights

6. The issue of Israeli settlements in the West Bank remains central to the question of the Occupied Palestinian Territory. From 1967 to the end of 2007, Israel established 120 settlements in the West Bank, excluding East Jerusalem, which were recognized by the Ministry of the Interior of Israel as Israeli "communities" within

[3] See, for example, Security Council resolution 465 (1980), in which the Security Council, taking note of the reports of the Commission of the Council established under resolution 446 (1979) to examine the situation relating to settlements in the Arab territories occupied since 1967, including Jerusalem, expressed its concern and requested the Commission to continue to examine the situation relating to settlements in the Arab territories occupied since 1967, including Jerusalem, to investigate the reported serious depletion of natural resources, particularly the water resources, with a view to ensuring the protection of those important natural resources of the territories under occupation.

[4] See paras. 102-113. The Court concluded that the protections offered by human rights conventions do not cease in cases of armed conflict and that the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child are applicable in respect of individuals within its jurisdiction of a State, even concerning those individuals under its jurisdiction outside its own territory.

[5] An examination of the concluding observations of various United Nations treaty bodies confirms this view. In its concluding observations on Israel of 2003 (CCPR/CO/78/ISR), the Human Rights Committee reiterated that the provisions of the International Covenant on Civil and Political Rights apply to the benefit of the population of the occupied territories for all conduct by the State party's authorities or agents in those territories that affect the enjoyment of rights enshrined in the Covenant. Similarly, in its concluding observations on Israel of 2003 (E/C.12/1/Add.90), the Committee on Economic, Social and Cultural Rights reaffirmed its view that the State party's obligations under the Covenant apply to all territories and populations under its effective control. The Committee on the Elimination of Racial Discrimination drew a similar conclusion in its concluding observations on Israel of 2007 (CERD/C/ISR/CO/13, para. 32).

the occupied territory. Twelve other settlements are located on land annexed by Israel in 1967 and made part of the Israeli municipality of Jerusalem. In addition, there are approximately 100 "outposts", which are settlements unauthorized and unrecognized by the Israeli authorities.[6] The 16 settlements built in the Gaza Strip and 3 settlements in the northern West Bank were dismantled in 2005 during implementation of the so-called disengagement plan.

7. Israeli settlement construction in the West Bank has taken place under every Government since the 1967 Arab-Israeli war. In 2007, there were more than 450,000 settlers living in 149 settlements in the West Bank, including East Jerusalem. According to the Israeli Ministry of the Interior, the settler population in the West Bank, excluding East Jerusalem, increased by 5.1 per cent, from an estimated 268,163 in January 2007 to 282,362 in January 2008.[7] According to United Nations sources, almost 40 per cent of the West Bank is now taken up by Israeli infrastructure associated with the settlements, including roads, barriers, buffer zones and military bases.

8. According to figures from the Israeli Central Bureau of Statistics, construction in the settlements has increased in 2008 by a factor of 1.8 in comparison with the same period in 2007. The Israeli Ministry of Housing initiated 433 new housing units during the period from January to May 2008, compared with just 240 housing units during the period from January to May 2007.[8]

9. According to recent reports,[9] as of August 2008, more than 1,000 new buildings were in the process of being constructed in the settlements, of which approximately 2,600 were housing units. Approximately 55 per cent of these new structures are located to the east of the separation wall. The number of tenders for construction in the settlements has increased by 540 per cent in 2008 (417 housing units, compared with just 65 in 2007). The number of tenders in East Jerusalem has increased by 3,728 per cent (1,761 housing units, compared with 46 in 2007). Furthermore, 125 new structures have been added to existing outposts, including 30 permanent houses.

10. Until the end of the 1970s, the Government of Israel claimed that the construction of settlements was undertaken and the associated regime of special roads implemented on the grounds of military necessity and security. In the 1990s, the justification for the closure regime imposed on Palestinians resident in the Occupied Palestinian Territory shifted, the emphasis being placed on the need to protect Israeli settlers and the settlements themselves.[10]

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[6] Data available from B'Tselem (http://www.btselem.org/english/settlements/).

[7] See http://www.reliefweb.int. The figure does not consider the approximately 200,000 settlers in East Jerusalem. According to the Office for the Coordination of Humanitarian Affairs, in 2007, there were more than 450,000 settlers living in 149 settlements in the West Bank, including East Jerusalem ("The Humanitarian Impact on Palestinians of Israeli Settlements and Other Infrastructure in the West Bank", July 2007).

[8] Construction initiated by the Israeli Housing Ministry accounted for 64 per cent of all of the construction counted in the West Bank by the Central Bureau of Statistics in recent months (Peace Now, "Eliminating the Green Line", August 2008, available at http://www.peacenow.org).

[9] See Peace Now, "Eliminating the Green Line", August 2008.

[10] See Israeli High Court of Justice, *Tabib et al. v. Minister of Defence* (202/81) Piskei Din 36(2)622 and *Ayub et al. v. Minister of Defence et al.* (258/79), Piskei Din 33(2)113, 119, quoted in "Forbidden Roads: Israel's Discriminatory Road Regime in the West Bank" B'Tselem, 2004, p. 7.

11. The Government of Israel committed itself, under phase I of the road map, to freeze all settlement activity from March 2001 (S/2003/529, annex). This was consistent with the recommendation contained in the Mitchell report of 2001, which states that Israel should freeze all settlement activity, including the "natural growth" of existing settlements, and that the kind of security cooperation desired by Israel cannot for long coexist with settlement activity.[11]

12. The existence of settlements restricts the freedom of movement of Palestinians resident in the West Bank in several ways. The areas included within the municipal boundaries of settlements are designated "closed areas", and Palestinians are prohibited from entering those areas unless they hold a specific permit (usually restricted to labourers and settlers themselves).[12] The actual built-up area settlements and their municipal boundaries consists of some 9 per cent of the total territory of the West Bank.[13] Furthermore, additional land is included within the settlement regional jurisdiction. This includes land reserved for agricultural and industrial areas attached to settlements, areas for future settlement boundary expansion, and military closed areas around settlements, all of which are prohibited to Palestinians.

13. Despite the claim of the Government of Israel that the internal closure system within the West Bank is imposed on Palestinian residents there for security purposes, most of those internal restrictions on movement are largely premised on the protection of Israeli settlers and settlements and are designed to provide settlers with unobstructed travel capacity between settlements and to Israel itself.[14] None of the restrictions on the freedom of movement of Palestinians apply to Israeli settlers or Israeli citizens travelling throughout the West Bank.[15]

14. The example of Gaza is illustrative of the relationship between the existence of settlements and the closure system imposed on Palestinians living in the West Bank. Following the Israeli disengagement and removal of the settlements from the Gaza Strip in August 2005, the need for internal closure became non-existent. This fact suggests that the presence of Israeli settlements in the West Bank has a similar effect in relation to the need to maintain the internal closure system operating there.

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[11] Report of the Sharm el-Sheikh Fact-Finding Committee, 30 April 2001, available at www.yale.edu/lawweb/avalon/mideast/mitchell_plan.htm.

[12] Order Regarding Security Regulations (Judea and Samaria) (No. 378) (5730-1970), Declaration Concerning Closing an Area.

[13] World Bank, "Movement and Access Restrictions", May 2007, available at http://domino.un.org/unispal.nsf/.

[14] Office for the Coordination of Humanitarian Affairs, "The Humanitarian Impact on Palestinians of Israeli Settlements and Other Infrastructure in the West Bank". The report states: "As violence escalated in September 2000, the closure regime focused on those West Bank roads mainly used by Israelis to severely restrict Palestinian movement. These continuing measures are justified by the Government of Israel as necessary to protect Israeli citizens from terrorist attacks. As this report demonstrates, these measures are also intimately linked to maintaining settler access and their quality of life. The roads have become corridors to link settlements to Israel. They have also fragmented the West Bank, into a series of enclaves, isolating Palestinian communities from each other" (p. 124).

[15] A clear example is the restrictions on the movement of Palestinians within the market area of Hebron, justified as part of the general operational plan that is designed to provide security to the Jewish settlement bloc in the city (World Bank, "Movement and Access Restrictions").

15. The right to an adequate standard of living is guaranteed under article 11 of the International Covenant on Economic, Social and Cultural Rights. That right encompasses the right to food, the right to the highest attainable standard of health, the right to water, the right to necessary social services, the right to clothing and the right to housing. The enjoyment of all of those rights by Palestinians living in the occupied territory has been negatively affected by the impact of the settlements, including the associated security regime to protect the settlements and by repeated instances of settler violence.

16. The freedom of movement of Palestinians living in the West Bank has been limited by a number of measures designed to increase the security of the settlements. Some roads in the West Bank have been designated for the use of settlers only, with a complete ban on the use of such roads by Palestinians. Likewise, Palestinians are not permitted to approach the settlement areas for the purposes of farming or herding.[16]

17. The right of Palestinians in the West Bank to own property has consequentially been affected by the settlements. The building of settlements has entailed expropriation and destruction of private Palestinian lands contrary to articles 53 of the Fourth Geneva Convention and articles 46, 52 and 23 (g) of the Hague Regulations. Land owned by Palestinian farmers has been requisitioned and homes have been demolished in order to construct settlements. In addition, the construction of the barrier and roads for the exclusive use of settlers has caused further appropriation of land.

Confiscation of land

18. It is estimated that that 33 per cent of settlements and land incorporated into settlement areas is private land owned by Palestinians.[17] Much of this private land was expropriated by the State of Israel on grounds of military necessity, or under land appropriation laws. Evidence suggests that initially the establishment of settlements was justified on the grounds of military necessity and security. As with the road system, it was claimed during the 1970s that the settlements served a security function. This was sanctioned by the Israeli High Court of Justice, thereby justifying the expropriation of Palestinian private land.[18] However, in 1979, the Court ruled that a proposed settlement was not legal, since it was evident to the Court that it was intended not to serve a temporary security purpose but to be permanent.[19]

19. Following that decision, the Government of Israel has shifted its policy of expropriation of private land based on military necessity and security grounds to one of constructing settlements on public or State lands or appropriating land under the civil laws in place since before the occupation. The Government of Israel has since

[16] These restrictions are in violation of article 12 of the International Covenant on Civil and Political Rights, article 5 (d) of the Committee on the Elimination of Racial Discrimination, article 13 of the Universal Declaration of Human Rights and article 10(2) of the Convention on the Rights of the Child.

[17] World Bank, "Movement and Access Restrictions"; "Breaking the Law in the West Bank: The Private Land Report", Peace Now, November 2006.

[18] High Court of Justice, *Arub et al. v. Minister of Defence et al.* (258/79), Piskei Din 33(2)113, 119.

[19] High Court of Justice, *Douykat v. Government of Israel*, Piskei Din 34(1), 13 (1979) ("Elon Moreh Case"); see *Palestine Yearbook of International Law*, 1984, p. 134.

declared that land in the West Bank is to be considered State land until proven otherwise.[20] This is done under Ottoman land laws according to which land left fallow for three years reverts to the State.[21] Land may be seized either because no one can prove ownership in accordance with the required standard of evidence or because the area in which the land is situated is declared a closed military zone which farmers are prohibited from entering. After three years, such unused land may be declared abandoned according to the Ottoman land law, and ownership reverts to the State. Accordingly, it is estimated that as much as two thirds of land in the West Bank could be classified as State lands. The Planning Council of the Civil Administration may then apportion the land to existing or new settlements. Once the land is apportioned to a settlement, Palestinians are prohibited from accessing the area. The seizure of land in such circumstances or the declaration of a closed military zone necessarily has an impact on the freedom of movement of Palestinians and restricts their freedom to choose a residence by preventing access to homes and land. The Government of Israel claims that such settlements do not violate international humanitarian law since they are constructed on public lands and do not displace the inhabitants of the Occupied Palestinian Territory.

20. More recently, particularly following the Oslo Accords of 1993, an alternative method of expropriating Palestinian land for the construction of settlements has been employed under the Jordanian planning laws,[22] which permit expropriation for

[20] B'Tselem, "Israeli Settlement in the Occupied Territories as a Violation of Human Rights: Legal and Conceptual Aspects", 1997, available at www.btselem.org.

[21] In the early 1980s, the Government of Israel reinterpreted the Ottoman land code to permit the Commander of the Israeli Defense Forces in the West Bank to declare as "State land" uncultivated miri land that had not been registered during the British Mandate or Jordanian rule. Between 1980 and 1984, the Government of Israel declared some 80,000 hectares of the West Bank as State land — sometimes without formally notifying the farmers who had cultivated it for generations (B'Tselem, "Land Grab: Israel's Settlement Policy in the West Bank", 2002). Furthermore, lands enclosed within closed areas or closed military zones, when left uncultivated for three years are also declared State lands and the land largely apportioned for settlements (M. Benvenisti, *The West Bank Data Project: A survey of Israel's policies*, American Enterprise Institute for Policy Research, Washington, D.C., 1984, p. 32). Some areas declared State land were not actually enclosed within closed zones immediately, and in some circumstances farmers continued to cultivate such land. However, with lands now enclosed within the seam zone, to which access has been denied to the owners, it appears that such land will be declared State lands and appropriated for further settlement construction or expansion.

[22] In Area C of the West Bank, the Government of Israel retains authority for zoning and construction planning permits. The Jordanian City, Village and Building Planning Law (No. 79) (1966) serves as the basis for all planning activities, and its provisions are used to determine the size, zoning and location of each unit of land. It determines three levels of plans — regional outline plans, general local outline plans and detailed plans — and corresponding institutional systems such as the Supreme Planning Council and district and local planning committees, and determines the mechanisms for consultations, public participation, publication and objections. The ambit of the law applies to housing, industry, roads and public institutions. The law was modified by military order in 1971, and subsequent amendments transferred the power from the Jordanian Ministry of the Interior to the Military Commander of the West Bank and introduced major changes, particularly to the planning system, by replacing Palestinians on the planning committees with Israeli security forces officials and settlers: Order Concerning the City, Village and Building Planning Law (Judea and Samaria) (No. 418) (5371-1971), sect. 2(2)(3). The Supreme Planning Council became a part of the Civil Administration, and all district planning committees and planning authorities of village councils were eliminated, their powers transferred to the Supreme Planning Council of the Civil Administration. See also World Bank, "Movement and access restrictions".

the "benefit of the population", despite the fact that access by the Palestinian population to such lands within settlement boundaries is prohibited. Israeli control of the Supreme Planning Council, which forms part of the Civil Administration, particularly in Area C,[23] has also been instrumental in promoting the growth of settlements and limiting the development of Palestinian towns and villages.[24]

IV. Israeli settlement activities in the Occupied Palestinian Territory

21. As already noted, the settlements are supported by a road network that includes roads reserved for the use of settlers, and others that are restricted to Palestinian residents at certain times, which impede the freedom of movement of Palestinian communities. The construction of the barrier to include settlement areas also contributes to the isolation of Palestinian communities. More than 80 per cent of all Israeli settlers living in the West Bank reside on the western side of the barrier. The barrier's route weaves between some Palestinian villages and neighbourhoods, contributing to the fragmentation of the West Bank into a series of Palestinian enclaves separated from one another by settlements, outposts, military areas, natural reserves, the wall and the restricted/prohibited roads.

A. The wall

22. According to available maps, the route of the wall in the West Bank has been largely determined by the location of settlements and the security of settlers.[25] The other side of this rationale, according to the Office for the Coordination of Humanitarian Affairs, is that densely populated Palestinian areas that are inside the Jerusalem municipal boundary are separated from the city by the wall.

23. The wall encircles settlements built around Jerusalem and within the West Bank and connects them to Israel, ensuring that Israeli settlers, 80 per cent of whom reside to the west of the wall, have unimpeded access to Jerusalem. The settler population and the land area of settlements have rapidly expanded, helped by the existence of the wall, which creates a de facto demarcation. At the same time, the wall weaves around and between East Jerusalem and West Bank towns and villages, dividing Palestinian communities and neighbourhoods in several places.

24. Public pronouncements by senior officials of the Government of Israel would seem to indicate that the construction of the wall and the determination of its route by the Government is not premised solely on security considerations, but is to a great degree determined by the desire to include on the Israeli side of the wall as many Israeli settlements as possible and to exclude as many Palestinians as

[23] The division of the West Bank under the 1993 Oslo Accords resulted in the majority of the territory, Areas B and C, remaining under Israeli control, leaving Palestinian "A" areas in isolated, non-contiguous zones. Israeli settlements were located mostly in Area C in a contiguous area of territory linked to Israel itself. Most of the main roads fell into Area C. Travel between "A" areas necessitated passing through areas controlled by Israel and along Israeli-controlled roads.

[24] See "Land Grab: Israel's Settlement Policy in the West Bank" B'Tselem, May 2002, p. 85.

[25] Maps are available at http://www.ochaopt.org/?module=displaysection&section_id=130&static=0&format=html.

possible.[26] A political purpose connected with the wall is suggested by statements made by the former Prime Minister, Ariel Sharon, and the then Minister of Justice, Tzipi Livni.[27] Further, the Israeli State Attorney's Office has acknowledged that the expansion of settlements was taken into account in the planning of the route of sections of the barrier.[28]

25. It is important to note that, upon completion, 87 per cent of the wall will be located inside the West Bank, and that 9.8 per cent of West Bank territory, including East Jerusalem, will be cut off from the rest of the West Bank. Approximately 420,000 settlers in 80 settlements and 285,000 Palestinians (including in East Jerusalem) will be located between the wall and the Green Line. Approximately 125,000 Palestinians in 28 communities will be surrounded on three sides by the wall, and 26,000 Palestinians in 8 communities will be surrounded on four sides.[29]

B. Bypass roads

26. The severe restrictions on Palestinian access to certain roads within the Occupied Palestinian Territory is one of the policies sustaining settlements. As with the wall, roads are being built allegedly for the security of Israeli settlers and settlements. The concept of the bypass road system is aimed at enabling Israeli settlers to travel between settlements without having to pass through Palestinian-inhabited areas.

27. Since 1967, Israel has established a network of roads throughout the Occupied Palestinian Territory, allegedly to support military needs and to improve infrastructure for the benefit of the Palestinian people.[30] The construction of roads in the West Bank has been sanctioned by the High Court of Justice of Israel on the basis of military necessity and the security of Israeli citizens.[31]

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[26] See "The Humanitarian Impact on Palestinians of Israeli Settlements and Other Infrastructure in the West Bank", Office for the Coordination of Humanitarian Affairs, p. 124, which states: "The construction of the barrier since 2002 has further fragmented the West Bank and has reinforced the permanence of the settlements. The route of the barrier is determined by the settlements. The barrier cuts deep into the West Bank, looping around the settlements, stretching 22 km to encircle Ariel settlement at its most intrusive point. Without the settlements, the barrier could follow the Green Line with minimal disruption to Palestinian life."

[27] Ariel Sharon, while addressing members of the Jewish community in Paris on 28 July 2005, stated that as a result of the wall "Israel has gained unprecedented political achievements", including "a guarantee that the major population centres in Judea and Samaria (that is, the West Bank) will remain part of Israel in any final status agreement; and there will be no return to the 1967 borders" (E/CN.4/2006/29, para. 26). The Israeli Minister of Justice, Tzipi Livni, acknowledged on 30 November 2005 that "one does not have to be a genius to see that the fence will have implications for the future border. This is not the reason of its establishment, but it could have political implications". (*Ha'aretz*, 1 December 2005).

[28] See High Court of Justice, *Beit Sourik Village Council et al. v. Government of Israel et al.* (2056/04), sect. 80.

[29] See "The Humanitarian Impact of the Barrier: Four Years After the Advisory Opinion of the International Court of Justice on the Barrier", Office for the Coordination of Humanitarian Affairs, July 2008, update No. 8.

[30] See "Humanitarian Impact on Palestinians of Israeli Settlements and Other Infrastructure in the West Bank", Office for the Coordination of Humanitarian Affairs.

[31] See High Court of Justice, *Tabib et al. v. Minister of Defence* (202/81), Piskei Din 36(2) 622; High Court of Justice, *Ayub et al. v. Minister of Defence et al.* (258/79), Piskei Din 33(2) 113, 119. Quoted in "Forbidden Roads", pp. 8-9.

28. Maps produced by the Office for the Coordination of Humanitarian Affairs show that a two-tiered road system has been established throughout the West Bank in which the main roads are reserved for the exclusive use of Israeli settlers and Israeli security personnel, while Palestinians are confined to a secondary network of roads that are in inferior condition. The maps reveal that the vast majority of Israeli-built roads in the West Bank form a network linking the Israeli settlements with one another and to Israel itself.[32] The Office has estimated that Palestinians are denied free access to approximately 1,500 km of road within the West Bank.

29. In some instances, Israeli settlers themselves have commenced road construction illegally on privately owned Palestinian land without obtaining prior authorization and without subsequent action or intervention by the Israeli security forces.

C. Prohibited roads

30. Roads in the West Bank fall into three categories: completely prohibited, partially prohibited and restricted-use roads.[33] According to the Office for the Coordination of Humanitarian Affairs, prohibited roads include some 20 major and regional roads throughout the West Bank. Most prohibited roads comprise the major north-south and east-west routes in the West Bank. These are reserved for settlers, Israeli security forces and non-Palestinian international passport holders, including international United Nations staff.[13] Travel on these roads by Palestinian residents and vehicles bearing Palestinian number plates is completely forbidden. Emergency services and commercial vehicles are also covered by this blanket prohibition.[34]

31. Access to some prohibited roads is controlled by staffed checkpoints, while in other cases access is prevented by physical barriers such as earth mounds, fences, iron gates and trenches. Where a prohibited road cuts across a Palestinian road, Palestinians are forbidden from crossing the prohibited road by car. In order to cross the prohibited road, Palestinians must alight from their vehicle, cross the road on foot and find another vehicle on the other side to continue their journey.[35]

32. Partially prohibited roads are those for which a special permit is required; such permits are applied for in the same manner as normal movement permits for individuals. Some public-transport companies have been granted permits, including bus companies, which run buses between the checkpoints that regulate access to all major Palestinian cities.

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[32] It seems that some of the roads in the West Bank were planned so as to place a physical barrier to inhibit Palestinian development, since their routes often cut through Palestinian areas to create fragmented enclaves. In fact, the Settlement Plan for 1983-1986 specifically stated that a primary consideration in choosing the route of a road and the placement of settlements should be to limit the expansion and construction of Palestinian villages; see "Land Grab: Israel's Settlement Policy in the West Bank", B'Tselem, May 2002, chap. 8; see also "Forbidden Roads", p. 6.

[33] *Waiting for Justice: Al-Haq: 25 Years of Defending Human Rights (1979-2004)*, p. 87; see also "Forbidden Roads".

[34] See "The question of freedom of movement and the impact of the 'separation barrier' on it in the territories occupied by Israel", European Union, 2006.

[35] See *Waiting for Justice*; "Forbidden Roads"; and "The Question of Freedom of Movement".

33. Palestinian travel is entirely or partially prohibited on some 41 roads and sections of roads throughout the West Bank, including many of the main arterial routes covering some 700 km of road.[36]

34. Restricted roads are those that can be accessed only through an intersection at which a checkpoint stands. Individuals travelling on such roads who are not from the local area must have a permit. On passing the checkpoint, all vehicles are searched, and permits are checked by Israeli security forces. There are usually significant delays involved in passing through these checkpoints.[37] In the West Bank, Palestinian vehicles that are stopped for any suspected infringement of traffic laws will be searched and confiscated if the driver is found not to have the appropriate permit.

35. The road-classification system and the physical obstructions present on roads throughout the West Bank, in conjunction with the permit system, serve to divide the West Bank into six separate areas and to control or inhibit the movement of Palestinians in the Occupied Palestinian Territory. The prohibition on travel along many main roads means that Palestinians must make long and convoluted detours to reach their destination, often on substandard roads. According to the Office for the Coordination of Humanitarian Affairs, since the restrictions apply also to commercial vehicles, there is a significant increase in the time required for, and the cost of, transporting produce and other commodities throughout the West Bank.

36. The establishment of roads reserved for the exclusive use of the occupants of settlements is discriminatory and in violation of the prohibition against discrimination based on article 3 (1), article 13 and article 27 of the Fourth Geneva Convention. International human rights law insists that there must be no unlawful discrimination even in times of national emergency, such as has not been declared by the Government of Israel.

D. Checkpoints

37. Access to the restricted or prohibited road network is controlled by flying (i.e., temporary and moveable) and permanent checkpoints. Furthermore, there is a variety of physical barriers, such as earth mounds, fences, gates, trenches and earth walls, which physically prohibit Palestinians from accessing such roads. The effect of the prohibited and restricted road network, coupled with checkpoints and other physical obstacles to travel, is that circuitous and lengthy journeys are required to travel from one village to another or from one area to another, or that people are unable to travel between them at all. This inevitably disrupts many aspects of the daily life of Palestinians (see http://www.ochaopt.org).

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[36] For example, routes 463, 466 and 443 (linking Jerusalem and the settlements surrounding it with Tel Aviv) and 557 (from Elon Moreh and Itamar settlements, effectively isolating 14,000 Palestinian villages from Nablus and the rest of the West Bank) are solely for use by Israeli citizens; see "The Question of Freedom of Movement"; see also "Forbidden Roads".

[37] See "Forbidden Roads".

V. Settler violence in the occupied territory

38. There have been reports of incidents of violence committed by Israeli settlers, including vandalism of crops, the killing of livestock, the poisoning of water wells, the blocking of roadways, the destruction of cars and the verbal abuse of and assaults on Palestinians. According to the Office for the Coordination of Humanitarian Affairs, from January 2008 until the end of July, 270 incidents of violence committed by settlers were reported, resulting in injury to approximately 50 Palestinians. International humanitarian workers have also been attacked; for instance, in July 2008, a group of Palestinian children walking to a summer camp in Tuwani village (Hebron) were attacked by settlers, and the international worker accompanying them was injured.

39. On 10 May 2008, settlers from areas south of Bethlehem reportedly took over a Palestinian house belonging to the Arts church in the south of the city. Allegedly, Israeli soldiers were present but did not intervene. On 30 May, settlers threw stones at a Palestinian house located close to the southern fence of Kiryat Arba settlement; soldiers who were present allegedly failed to halt the attack.[38] Over a period of three days in mid-June 2008, hundreds of settlers reportedly besieged the villages of Howwrah, Boreen and 'inYbous, south of Nablus. The settlers were reported to have blocked the main road leading from the villages to Nablus. On the second day, the settlers allegedly set fire to and destroyed 100 dunums of land planted with olive trees on a hill near Howwrah village. It was reported that Palestinian firemen who came to extinguish the fire were stopped by Israeli security forces.[39] The particular nature of those attacks, targeting property including agricultural land belonging to Palestinian farmers, is significant in the broader context of land appropriation.

40. In January 2007, B'Tselem, an Israeli human rights organization, launched the "Shooting Back" advocacy project, through which the organization provides video cameras to Palestinians living close to settlements, with the stated purpose of bringing the reality of their lives under occupation to the attention of the Israeli and international public, exposing and seeking redress for violations of human rights. Since January 2007, many of the attacks have been filmed and brought to the attention of the authorities and of the public.[40]

41. It appears that the Israeli authorities have failed to adequately ensure public order to protect Palestinians from criminal attacks by settlers. Some incidents of settler violence were allegedly not investigated promptly or at all by the Israeli authorities, in violation of article 43 of the Hague Regulations, which obliges the occupying Power to take all measures within its power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

[38] "Settler Violence Report: May and June 2008", Alternative Information Centre, July 2008.

[39] Settler violence incidents are also reported in *The Humanitarian Monitor*.

[40] All documented attacks are available at http://www.btselem.org/english/OTA/?WebbTopicNumber=01&image.x=14&image.y=7.

VI. Israeli settlements in the occupied Syrian Golan

42. As at the end of June 2008, some 18,000 Israeli settlers were estimated to be living in 32 settlements in the occupied Syrian Golan.[41] Construction of infrastructure and housing was pursued actively in 2007 and early in 2008, notwithstanding calls by the international community to halt construction in the occupied territories and despite the fact that the Golan Heights is on the agenda of recent peace talks between the Syrian Arab Republic and Israel.[42]

43. The detrimental impact of the Israeli occupation of the Golan on the livelihoods of the local population relates to the restrictions on land cultivation and farming. The alleged confiscation of land belonging to Syrian citizens, the uprooting and destruction of trees and seedlings, and discrimination with regard to access to water and construction permits affect Syrian citizens living in the occupied Golan. The consequent economic difficulties have been exacerbated by a particularly harsh winter, which destroyed much of the 2007 harvest. Land that is left uncultivated is subject to confiscation by the Israeli authorities.[43]

44. According to the Arab community of Majdal Shams, the Israeli water authority had initially allocated 750 cubic metres (m^3) of water per dunum of land to Israeli settlers. Arab farmers were allocated a quota of 150 m^3 per dunum. Recently the two quotas have been reduced to 450 m^3 and 90 m^3, respectively. As a result of these unequal quotas, Syrian citizens are unable to produce the same quantity of high-quality apples per dunum of land as Israeli settlers in the region. In addition, Syrian citizens directly pay more for water as a result of an indirectly discriminatory tariff system. These conditions, as well as discrimination with regard to subsidies, combined with a high dependency on the Israeli market, mean that cultivation has become increasingly difficult for Syrian citizens of the Golan.[43]

45. Such practices are contrary to the standards and principles set out by the International Labour Organization concerning equality of opportunity and treatment in employment and occupation, which include the right to equal access to natural and other resources, including subsidies, without discrimination.

VII. Recommendations

46. **In view of the worsening human rights situation in the occupied Palestinian territory, the protection of both Palestinian and Israeli civilians requires action by all parties and the international community. As such, all parties to the conflict should cease all actions violating international human rights and humanitarian law.**

47. **The Government of Israel should abide by its commitments as stated in the road map and reiterated in the Annapolis joint statement of November 2007, namely, to immediately dismantle settlement outposts erected since March 2001 and to freeze, consistent with the Mitchell report, all settlement activity (including natural growth of settlements).**

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[41] See http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.4311487/.

[42] See *Ha'aretz*, 27 May 2008; http://www.haaretz.com/hasen/spages/987462.html.

[43] See "The situation of workers of the occupied Arab territories", International Labour Organization, at http://www.ilo.org.

48. **The Government of Israel should take action to halt attacks by Israeli settlers against the civilian population of the occupied territory and ensure that a proper investigation is carried out in regard to incidents caused by such settlers and that redress is given to the victims of such violence.**

49. **The General Assembly and the international community should actively promote the implementation of its decisions, resolutions and recommendations and those of the Security Council, the International Court of Justice and the United Nations human rights mechanisms, including treaty bodies and special procedure mandate-holders.**